UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1990/SR.49
14 March 1990

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 49th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 5 March 1990, at 10 a.m.

Chairman: Mrs. QUISUMBING (Philippines)
later: Ms. SINEGIORGIS (Ethiopia)

CONTENTS

Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-first session (continued)

Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission:

(a) Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.90-11669/1640B

CONTENTS (continued)

(b) National institutions for the promotion and protection of human rights

(c) Co-ordinating role of the Centre for Human Rights within the United Nations bodies and machinery dealing with the promotion and protection of human rights

The meeting was called to order at 10.20 a.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-FIRST SESSION (agenda item 19) (continued) (E/CN.4/1990/2-E/CN.4/Sub.2/1989/58, E/CN.4/1990/40, 56, 75, 82 and 85; E/CN.4/1990/NGO/6; E/CN.4/Sub.2/1989/26, 36, 37 and 39)

1. Mr. LITTMAN (World Union for Progressive Judaism), referring to the draft Declaration on Freedom and Non-Discrimination in Respect of the Right of Everyone to Leave Any Country, Including His Own, and to Return to His Country, said that the crucial importance of that right had grown dramatically in recent years. The situation in the Soviet Union had been totally transformed since 1986, when scarcely 1,000 Jews had emigrated, whereas in the following three years, nearly 100,000 had been allowed to leave. It appeared that well over 100,000 Jews would leave the Soviet Union for Israel during 1990 alone.

2. In previous years, the arrest and imprisonment of Soviet human rights activists, including Andrei Sakharov and Anatoly Sharansky, had not been placed on the agenda of the Commission. Currently, however, the Soviet members of the Commission were stressing the need to approach individual cases in a humane spirit. The words glasnost and perestroika represented beacons of hope to many, yet the old evils, if not held firmly in check, might return.

3. Article 7 of the Draft Declaration provided that relatives could not prevent, by withholding their consent, the departure of any person seeking to leave a country. Yet that was precisely the reason still invoked by the Soviet authorities for retaining as many as 300 families, whose emigration applications had been automatically rejected owing to the lack of consent by one or more relatives. The best known of such "poor relation" cases was that of Dr. Vladimir Dashevsky of Moscow, who had not been granted permission to emigrate to Israel because his wife's parents had refused to sign a statement attesting that he had no financial obligations towards them. He had personally appealed on Dr. Dashevsky's behalf to various Soviet officials over the previous two years, but to no avail.

4. Another administrative idiosyncrasy involved the secrecy rule. He drew attention to the case of a Moscow resident, Slava Uspensky, who had been forced to wait more than 10 years for an exit visa because his grandmother had allegedly had access to State secrets before her retirement. Another Moscow resident, Anatoly Genis, had also recently been refused an exit visa, after 16 years. Such cases contradicted President Mikhail Gorbachev's assertion that strict time-limits should be placed on the secrecy rule.

5. It was inconceivable that, at a time when Jews were being allowed to leave the Soviet Union at the rate of 300 a day on average, the Soviet authorities would not wish to put an end to such "refusenik" cases, which often involved family reunification. It would be heartening to learn soon that exit visas had been granted to the individuals he had mentioned, and to the other families whose names had been raised before the Sub-Commission on Prevention of Discrimination and Protection of Minorities, most of whom had been waiting to leave the Soviet Union for more than 10 years.

6. Mr. STRUYE DE SWIELANDE (Belgium) said that, at a time when it was so much a question of the role and achievements of the Sub-Commission, his delegation wished to reiterate the importance it attached to that body. The Sub-Commission suffered from the same defects as the Commission itself, and it might therefore be advisable to improve the functioning of the Commission before attempting basic reforms of the Sub-Commission.

7. There were, however, two areas in which improvements appeared to be both desirable and essential, namely, the number of studies undertaken and the necessity of avoiding duplication of the work of the Commission and Sub-Commission. Some 30 studies and reports were currently on the agenda of the Sub-Commission, which meant that there could be no possibility of any meaningful discussion among the experts of different backgrounds and philosophies. That was regrettable, because the value of the Sub-Commission lay in the types of experience which the various experts could bring to its work. Therefore, the Sub-Commission should never have more than five or six studies on its agenda. By streamlining its agenda, the Sub-Commission could also avoid duplication and repetition.

8. The Sub-Commission was currently concerned with improving its working methods and efficiency. While welcoming that development, his delegation had reservations concerning the proposed report on the status of human rights in the world. Such a project was not a priority for the Sub-Commission, and its 26 experts, even with the assistance of the Centre for Human Rights, were not equipped for the task. The Sub-Commission would also run the risk of becoming politicized, precisely at a time when it was expected to focus on an in-depth study of carefully selected themes.

9. Decision 1989/106, by which the Sub-Commission had decided not to consider communications unless the Government concerned had had at least five months in which to reply, appeared to reduce further the protection given to victims of human rights violations. A period of not more than two months should be sufficient to enable Governments to respond to allegations. It should be noted, moreover, that additional replies could be submitted even up to the time when communications were being considered. In addition, the decision appeared to be contrary to the resolutions governing the confidential procedure.

10. He expressed satisfaction at the adoption of Sub-Commission resolution 1989/25 on the "Right of everyone to leave any country, including his own, and to return to his country". It was to be hoped that the open-ended working group provided for in the draft resolution would conclude its deliberations as soon as possible. While recent events might give the impression that the subject had lost some of its importance, that was not true for all countries.

11. He reminded the Commission that, in 1989, his delegation had made a special appeal to the Cuban authorities to allow two persons to leave their territory, and had received assurances that the case of one of them would be given favourable consideration. To date, however, no positive action had been taken in that regard, which further underscored the importance of finalizing the text of a resolution on the right to leave.

READEX FICHE

12. Of the studies currently being undertaken or about to be undertaken by the Sub-Commission, there were three which, because of their sensitive nature, required a gradual and cautious approach. First, with regard to the proposed study by Mr. Joinet and Mr. Türk on the right to freedom of opinion and expression, he noted with appreciation the working paper prepared by Mr. Türk (E/CN.4/Sub.2/1989/26), which mentioned the inherent link between freedom of expression and the problem of political prisoners. Secondly, with regard to the proposed report by Mr. Eide on national experience in respect of the peaceful and constructive solution of problems involving minorities, even a superficial analysis of recent political events indicated the extreme relevance of the question of minorities in the contemporary world. The Sub-Commission could therefore make an important contribution to that field. Thirdly, with regard to the question of religious intolerance, his delegation endorsed the conclusions reached by Mr. van Boven in his working paper on the subject (E/CN.4/Sub.2/1989/32), namely, that the drafting of any new and binding international instrument on freedom of religion and belief must be preceded by careful preparatory work, sound research and analysis.

13. His delegation had high regard for the work accomplished by the Working Group on Contemporary Forms of Slavery. Year after year, the Working Group had succeeded in pinpointing a number of extremely pernicious human rights violations, particularly in the area of the sale of children, child prostitution and illegal child labour. It was to be hoped that, in the wake of the adoption of the Convention on the Rights of the Child, the Working Group would continue to pay close attention to such problems, which were often shrouded in silence.

14. Mr. RÖNQUIST (Sweden) said he welcomed the increasing part played by the Sub-Commission in the promotion and protection of human rights. The continuing dialogue between the Sub-Commission and non-governmental organizations had proved to be useful to both parties. It was also essential for the Commission to devote serious efforts to strengthening the dialogue between it and the Sub-Commission, whose role as the Commission's think-tank had often been stressed.

15. The Sub-Commission and its working groups made an invaluable contribution to standard-setting in the field of human rights. The studies and working papers prepared by the independent experts were of great value. Due to the increasing number of such studies, however, they were not always given enough attention by the Sub-Commission as a whole. It would thus be better for the Sub-Commission to refrain from becoming involved in too many areas at once.

16. While it was appropriate for the Sub-Commission to draw the attention of the Commission to issues which, in its view, required consideration or action by the Commission, that could be accomplished by the Sub-Commission adopting resolutions of its own. The actual drafting of Commission reslutions should be left to the participating States having a particular interest in the issues involved, through the normal process of negotiations. He therefore urged the Sub-Commission to reconsider its practice of forwarding ever-increasing numbers of draft resolutions to the Commission.

17. With regard to standard-setting, the Sub-Commission, before embarking on the elaboration of new instruments, should consider carefully whether the issue under consideration really warranted a new instrument.

18. As pointed out by Mr. Alston, an independent expert, in his report on enhancing the effectiveness of the human rights treaty bodies (A/44/668), requests to Governments for information were becoming a burden which could have a negative impact on the fulfilment by Governments of their reporting obligations, a matter which the Sub-Commission should bear in mind.

19. His Government was following with interest the efforts of the Working Group on Indigenous Populations to elaborate a draft Universal Declaration on the Rights of Indigenous Peoples, and supported the Working Group's recommendation that it should be authorized to meet for 10 working days in 1990 in order to accelerate its progress.

20. At its most recent session, the Working Group on Contemporary Forms of Slavery had dealt with some very important issues concerning the exploitation of children. His delegation welcomed the draft Programme of Action for prevention of sale of children, child prostitution and child pornography (E/CN.4/Sub.2/1989/39) and would give it serious consideration. It also welcomed the decision of the Sub-Commission, in its resolution 1989/41, to give attention to the recruitment of children into armed forces, and its recognition that, in connection with article 38 of the Convention on the Rights of the Child, no effort should be spared to prevent the militarization of children.

21. The Working Group on Detention had made an important contribution with regard to the human rights of detained juveniles. Resolution 1989/32, by which the Sub-Commission urgently appealed to all States to comply with the prohibition in international standards on the application of the death penalty to persons under the age of 18, was especially welcome.

22. The procedure under Economic and Social Council resolution 1503 (XLVIII), which entitled individuals to have their communications reviewed by the United Nations, was of vital importance. His delegation was thus concerned at Sub-Commission decision 1989/102, by which it had decided not to consider communications unless the Government concerned had had five months in which to submit a reply. While recognizing that States should be given the opportunity to study carefully and comment upon communications, he felt that it was in the interest of both individuals and States that the decision taken by the Commission should be based on the actual situation in the country. It was essential, therefore, that the material before the Commission should be as recent as possible. He hoped that the Sub-Commission would take into account the concerns expressed by various delegations and reconsider its decision.

23. With regard to the forthcoming elections of members of the Sub-Commission, his delegation would support candidates who met two essential criteria: they must be experts in the field of human rights, and they must be capable of acting independently.

24. Mrs. BATACLAN (Philippines), said, with respect to draft resolution I, referred by the Sub-Commission to the Commission for its consideration and entitled "Human rights monitoring mechanisms established within the United Nations framework", that her delegation endorsed the recommendation made in paragraph 2 for the Secretary-General to consider convening not later than 1991 an international meeting of experts on issues related to international monitoring in the field of human rights.

25. That was an area in which the Sub-Commission could make a very important contribution as a body of independent experts. The Sub-Commission should be mandated by the Commission to study the functioning of international monitoring mechanisms in the field of human rights, beginning with those of the Commission itself. The treaty bodies and the Commission were constantly engaged in improving their functioning. What was lacking was a co-ordinated approach, which was where the expertise of the Sub-Commission could be useful.

26. Within the United Nations system, there was a plethora of monitoring mechanisms, including not only the various treaty bodies but also the mechanisms evolved by the Commission and Sub-Commission on the basis of a number of resolutions. It did not make sense for the international community to have spent years in evolving standards together with their implementation mechanisms, only to disregard the treaty bodies. She wondered whether it would not be advisable for the primary monitoring role to be left to those bodies and for the Commission to concentrate on encouraging States which had not yet done so to consider becoming parties to the International Covenants on Human Rights.

27. There was, of course, a universe of States which were not parties to the various human rights instruments whose observance of the universally accepted human rights standards, such as those embodied in the Universal Declaration of Human Rights, should be monitored. It was with those States that the Commission should be primarily concerned.

28. There had always been controversy regarding the manner in which the Sub-Commission, pursuant to Commission resolution 8 (XXIII) of 1967, paragraph 2, could prepare, for the use of the Commission in its examination of that question i.e. situations revealing a consistent pattern of violation of human rights, a report containing information on violations of human rights and fundamental freedoms from all available sources. In actual fact, both the Commission and the Sub-Commission considered independently country situations and such questions as apartheid, the occupied Arab territories, missing persons, indigenous populations, etc., both bodies adopting individual resolutions on the countries concerned and on those thematic areas.

29. That procedure was prejudicial to the rules on admissibility under Sub-Commission resolution 1 (XXIV) of 1971. The development of an extra-legal parallel procedure disregarded all the built-in safeguards under Economic and Social Council resolution 1503 (XLVIII) of 1970, and had led to the current chaotic state of affairs. The Commission must decide whether it should strengthen the 1503 (XLVIII) procedure, which her delegation regarded as the proper course, or to discard it in favour of other procedures, such as the ones set out in Commission resolution 8 (XXIII).

30. The question had been raised whether the communications received pursuant to Council resolution 728 F (XXVIII) constituted a sufficient basis for the Sub-Commission to prepare a factual report for the Commission to deal with human rights violations under the procedure as mandated by Commission resolution 8 (XXIII) and Council resolution 1235 (XLII) of 1967. The concomitant issues of "selectivity" and "discrimination" with regard to the countries considered was a legitimate concern.

31. It was high time that the Commission carried out a comprehensive rationalization of its procedures. Together with the Sub-Commission, it must undertake an in-depth study of its functioning, and the Sub-Commission should be mandated to give consideration to the elements contained in its draft resolution I, with due regard for the views expressed by delegations in the Commission.

32. Mrs. dos SANTOS PAIS (Portugal) said that it was essential for the experts on the Sub-Commission to be independent. Consideration must be given to amending the procedural rules so as to enable the Sub-Commission to vote by secret ballot. That would guarantee the independence of the Sub-Commission's members and would prevent Governments from bringing pressure to bear upon them.

33. While Governments must be granted a reasonable amount of time to reply to allegations of human rights violations, her delegation was concerned that the five-month deadline fixed by Sub-Commission decision 1989/102 would lead to delays of one or two years in the evaluation of communications received. The Sub-Commission might consider suspending its implementation of that decision and reassess its content.

34. Her delegation wished to stress the importance of Sub-Commission resolution 1989/17 on discrimination against HIV-infected people or people with AIDS. It was to be hoped that, following the global consultation in July 1990 and with the co-operation of the World Health Organization, progress could be made on adopting measures to protect the human rights of such persons.

35. In the light of the working paper prepared by Mr. Türk (E/CN.4/Sub.2/1989/26) her delegation was in favour of the implementation of an in-depth study on the right to freedom of opinion and expression and the evaluation of measures to guarantee that right.

36. Her delegation attached much importance to the preliminary report on the protection of staff members of the United Nations sytem who had been detained or imprisoned or had disappeared (E/CN.4/Sub.2/1988/17) and awaited with interest the Secretary-General's report on the subject.

37. Her Government had followed closely the work of the Sub-Commission on the rights of the child and took the view that the Commission should find room in its agenda for an item devoted specifically to children's rights.

38. Her delegation supported the Working Group on Detention in its preparation of a draft declaration on enforced or involuntary disappearances. Defining the term "disappearance", however, might result in less protection against that practice, because such a definition, by its very nature, limited the scope of application.

39. Her delegation had paid particular attention to Sub-Commission resolution 1989/7 on the situation in East Timor. Despite the resolutions adopted by various United Nations bodies, the occupation of East Timor by Indonesia continued, giving cause for concern about human rights violations there. While her delegation was pleased that the Indonesian authorities had recognized the indivisibility and interrelationship of all human rights, it did not consider that improving the living conditions in East Timor by means

of a development plan in any way justified torture, disappearances or limits on freedom of opinion, expression or peaceful assembly. Furthermore, the educational system must not be such as to destroy East Timor's cultural and linguistic identity.

40. In view of the growing number of accusations regarding human rights abuses, her delegation urged Indonesia to allow human rights organizations to visit the territory of East Timor.

41. Mrs. RUESTA (Venezuela) said that her delegation continued to be in favour of complementarity between the work of the Commission and that of the Sub-Commission which, she thought, was still becoming more and more marked. It had paid special attention to Sub-Commission resolutions 1989/2 on the protection of journalists, 1989/21 on foreign debt, economic adjustment policies and their effects on the enjoyment of human rights, 1989/24 on human rights in times of armed conflicts, 1989/27 on the right to a fair trial, 1989/42 and 43 on preventing the sale of and traffic in children, 1989/31 on the application of international standards concerning the human rights of detained juveniles, 1989/32 on the application of the death penalty to persons under 18 years of age, 1989/33 on the use of force by law enforcement officials and 1989/108 on human rights and the environment.

42. It attached particular importance to the resolutions concerning the sale of and traffic in children. Traffickers had been deriving increasing profits from such sales. Most affected were children in developing countries, particularly in the poorest strata of the population. Children were sold primarily for adoption, prostitution, pornography, work, crime and begging. There had also been reports, as yet unconfirmed, that children were being used as a source of organs for transplants.

43. Accordingly, the Sub-Commission had decided to take the first steps towards adopting a concerted plan of action to put an end to such grave human rights violations. The Commission should pay particular attention to draft resolution XII, whereby a special rapporteur would be appointed for a period of one year to consider matters relating to the sale of children, child prostitution and child pornography, including the problem of the adoption of children for commercial purposes, and draft resolution XIII on a programme of action to prevent such human rights violations. If it proved more convenient, the two resolutions could be fused into one.

44. Ms. SINEGIORGIS (Ethiopia) said that, for many years, the multifarious and complex activities of the Sub-Commission had left much to be desired. As an expert group, the Sub-Commission was duty-bound to focus on issues that did not lend themselves to effective treatment by the Commission. If the Sub-Commission continued to take up matters that were adequately covered by the Commission, it would be failing to carry out its duties in strict compliance with its mandate.

45. Almost identical resolutions continued to be adopted by both the Commission and the Sub-Commission, and similar studies were often being carried out simultaneously by both bodies. In view of the financial crisis that the United Nations continued to face, the unnecessary waste of human and material resources through such duplication could be neither condoned nor allowed to continue.

46. Difficulty had also stemmed from the lack of effective co-ordination between the two bodies. The Commission must provide the Sub-Commission with clearer guidelines which could be based inter alia on recommendations by the latter body.

47. Politicization of the Sub-Commission was a further problem. The Commission should be the least political of United Nations forums. That applied even more to its expert subordinate body. The Sub-Commission was required, pursuant to its mandate, to provide expert advice to the Commission; its task was to investigate situations and collect facts rather than engage in political debates and judgements. Unless the Sub-Commission eschewed any political approach, its purpose would be defeated. It was imperative to prevent the Sub-Commission from being used as a forum for mutual recriminations by Governments and to ensure that any discussion was conducted by the Sub-Commission's experts themselves without any government involvement.

48. In that context, her delegation was greatly disappointed by events that had occurred during the Sub-Commission's forty-first session, including the suspension, twice in the session, of rule 59 of the rules of procedure, following the adoption of Sub-Commission decisions 1989/101 and 105 so as to allow voting by secret ballot. To resort to the latter, with the implicit concern about public scrutiny of views expressed by the Sub-Commission's experts, not only marked a departure from the guidelines set forth in Commission resolutions 1989/36 and 44, which requested the Sub-Commission to seek the widest possible measure of agreement on draft resolutions and discuss the subjects thoroughly, but also inevitably implied that the Sub-Commission had become politicized. The Sub-Commission's members should have the courage of their convictions and vote according to their consciences; the Commission, therefore, should point out to them the impropriety of their action.

49. Since the Sub-Commission was an indispensable subsidiary organ of the Commission, its enhanced effectiveness could make a major contribution to the Commission's role in promoting and protecting human rights and fundamental freedoms.

50. Mr. DAO (International Labour Organisation) said that the Sub-Commission's Working Group on Indigenous Populations had been kept informed of ILO's work on the Indigenous and Tribal Peoples Convention, 1989 (No. 169), which revised Convention No. 107 of 1957, taking into account the concerns expressed by indigenous peoples' own organizations and the requests of United Nations bodies, particular the Sub-Commission.

51. Whereas the earlier Convention had been oriented towards the integration and assimilation of indigenous peoples, the revision was based on the assumption that they would continue to exist as distinct elements within national societies; it accordingly reaffirmed the principle of respect for the cultures and traditions of such peoples everywhere and their right to a voice in consultations and decisions about any measures which might affect them.

52. Their rights to land ownership, including matters such as claims procedures and protection against expulsion, were recognized, as was their right to control their own affairs to a degree consistent with national circumstances. The ILO Conference had also recognized, in article 1 of the Convention, the need to ensure that the use of the term "peoples" would not

have consequences in law, especially with regard to the right to self-determination, which went beyond the scope of ILO's examination of the question. Conversely, the term in no way restricted any rights which such peoples might otherwise possess.

53. Pursuant to the earlier and revised Conventions, ILO's Committee of Experts on the Application of Conventions and Recommendations addressed observations to several ratifying States, in Asia and Latin America, concerning alleged violations of indigenous people's rights. Where appropriate, the Committee of Experts took into account information supplied from sources such as the Commission and other United Nations bodies, NGOs and international financial institutions. In addition, ILO carried out contact missions to assist the Committee, and information was provided regularly to the Sub-Commission's Working Group on Indigenous Populations.

54. Support for the ratification and application of the new Convention could be found, for instance, in the conclusions of the final report of the Sub-Commission's Special Rapporteur on the study of achievements made and obstacles encountered during the Decade to Combat Racism and Racial Discrimination (E/CN.4/Sub.2/1989/8 and Add.1), and in the global consultation on the realization of the right to development as a human right.

55. Pursuant to the revised Convention, Governments were requested to indicate, in their report on the Convention's application, whether consultations had been held with indigenous or tribal peoples' organizations on measures to give effect to the Convention, and to indicate the results of such consultations.

56. The ILO Conference had also adopted a resolution which, inter alia, urged international organizations to collaborate in developing activities to achieve the Convention's aims; ILO had already made preliminary contact, in that regard, with the secretariats of the United Nations and other bodies, particularly in the context of an International Year for Indigenous Rights, envisaged for 1993.

57. Ms. Sinegiorgis (Ethiopia) took the Chair.

58. Mr. SIMMONS (International Indian Treaty Council) said that indigenous peoples were those most strongly linked with the Earth, whose custodians and interpreters they were; they were also the victims of 500 years of displacement from their lands and, for the past 70 years, of deprivation of the right to representation as equals among the delegations of the world's nations. An example of that deprivation had been the failure of Chief Deskaheh of the Six Nations (Iroquois) Confederacy, despite widespread support, to be admitted to a seat in the League of Nations in 1923.

59. Indigenous peoples were not "minorities" but the surviving remnants of nations conquered by the Europeans centuries previously. Although they were represented at the Commission only through non-governmental organizations, they came from independent nations whose leaders had signed treaties with the political predecessors of the current Commission members.

60. In 1977, his organization had presented a first draft declaration of principles, which it was hoped would lead to recognition of the Indian nations of the Americas. It had also taken part, in 1981, in the second NGO Conference on Indigenous People and the Land, and in 1982 had begun to work with the Sub-Commission's Working Group on Indigenous Populations.

61. Since 1992 would mark the 500th year of oppression of the indigenous peoples of the Americas, his organization would like 1993 to be proclaimed the International Year for Indigenous Rights. Those peoples protested against commemoration of the so-called "discovery" of the Americas. They called upon the Commission to work with them for a brighter future for all. They drew attention, inter alia, to the continued violence in Guatemala and reiterated the need for the Commission to appoint a special rapporteur to monitor the serious human rights situation there.

62. Ms. AHIABA (Indian Council of South America) said that the indigenous peoples of South America had suffered the most from human rights violations, which amounted to a denial of their existence as indigenous peoples, as could be seen from a number of examples.

63. In Argentina, the authorities sought to disguise the problem from the Commission by claiming that the country contained a mere 200,000 indigenous persons whereas in fact there were 1 1/2 million; in Venezuela the response was simply to assert that all citizens were equal; in Peru, where the indigenous peoples were caught up in a dirty war, a presidential candidate, asked about those peoples' future in an interview, had said that some sacrifice was always inevitable; in Bolivia, the latest election results revealed no change in the situation of the indigenous population, which would continue to be unrepresented in Parliament and to suffer human rights violations under the state of siege, and the situation in Brazil, especially the case of the Yanomamis, had already been well described.

64. In 1992 Spain was planning to celebrate the 500th anniversary of a conquest which had led to the massacre of millions of indigenous persons, and money was being offered, even to indigenous organizations, in order to ensure that there was not too much opposition. Her organization hoped that the Commission would adopt the draft resolution recommended by the Sub-Commission on the International Year for Indigenous Rights. It also looked forward to progress on the text of the draft Universal Declaration on the Rights of Indigenous Peoples, and supported the initiative of extending the deliberations of the Working Group on Indigenous Populations from 5 to 10 days.

65. In a spirit of solidarity with the indigenous peoples of North America, her organization yielded the floor, for the remainder of the time allotted to it, to a speaker from that region.

66. Mr. KOOTSHONGSIE (Indian Council of South America), having expressed his thanks to the Indian Council of South America for the opportunity it had given him to speak on behalf of the Hopi people, said his people's situation had been referred to in the Sub-Commission's deliberations and reported on following visits by members of the Sub-Commission's Working Group on Indigenous Populations.

67. For many centuries the Hopis had been in sovereign possession of their lands and had lived in peace, independence, self-sufficiency and harmony with nature. However, the white men, since their arrival, had exploited the land without permission, changed the Hopi people's pattern of life and punished them for protesting.

68. The United States Government's Bureau of Indian Affairs had created Tribal Councils, ostensibly the legal representatives of the peoples - although not recognized by the traditional leaders - but in fact a means of promoting outside commercial interests. The forthcoming compulsory census-taking, which was being urged on the Hopi people by the Tribal Council because of an alleged need for Federal Government money and services, would create disharmony and hardship, violating the Hopis' human rights to self-determination and self-sufficiency.

69. He urged the Commission to consider the situation as a whole, decide that the aboriginal peoples of the Americas should be defended from the threat of extinction, and recognize their sovereignty and right to pursue their own culture and traditions on a portion of their original land. The outcome was of vital importance, since Hotevilla was the last remaining stronghold of the Hopi native people in the land. He hoped that he could inform his people of the Commission's support.

70. Mr. BABABYAN (International Federation for Human Rights) said that his organization welcomed the initiatives taken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities since 1988, particularly with regard to the protection of minorities. However, recent problems affecting many minorities required urgent action by the Commission, such as the situation of the Armenian minority in Azerbaijan and that of the Albanian minority in Kosovo, Yugoslavia.

71. While the national culture, tradition, language, civil and political rights of Armenians were being preserved in the Armenian SSR, they were being violated in Nagorno-Karabakh and were practically non-existent in the rest of Azerbaijan. Azerbaijan imposed an intermittent blockade on Armenia and a permanent blockade on Nagorno-Karabakh. In the rest of Azerbaijan, pogroms were organized, and Armenians who tried to protect themselves were arrested, subjected to ill-treatment and imprisoned.

72. The movement in Karabakh had rapidly taken on the proportions of a major struggle involving freedom of choice for all in conditions of democracy and respect for human rights, but the Armenians had never resorted to violence.

73. The central authorities had responded to the movement by a series of repressive actions: state of emergency, arrests and brutal repression of demonstrations in Armenia and Karabakh, at the same time that Armenia had experienced a terrible earthquake. Arrests were currently continuing.

74. Presenting the problem as a territorial claim, and characterizing the Armenian movement as extremist, the central authorities had undoubtedly rendered possible the massacre by Azeris in February 1988 of the Armenian minority in Sumgait. By delaying the dispatch of troops for three days, the authorities had permitted the violence to continue unabated.

75. In January 1990, at Baku, seven days had elapsed before the Soviet armed forces had intervened in the violence. During the massacres in the autumn of 1988, the authorities had organized the expulsion of the Armenians instead of protecting them and their property. The Armenians in the north of Nagorno-Karabakh were currently being obliged to sell their houses and leave.

76. Given the existing tension in interethnic relations in the Soviet Union, and in view of the isolation of some minorities surrounded by hostile majorities, the Armenian minority's desire for reunification with the Armenian SSR was aimed at preserving its existence and its right to life. The threat to the existence of the Armenian minority in Nagorno-Karabakh had been confirmed in December 1989 by the decision of the Supreme Soviet of the Azerbaijan SSR to abolish Karabakh's autonomous status.

77. In view of the rapid structural changes occurring in the Soviet Union, where there was no machinery for the effective protection of minorities, the actions directed against them were tending to spread to other regions. He stressed the need for the establishment of an effective governmental body to protect the rights of national minorities, with the essential participation of independent and impartial international observers.

78. However, the anti-Armenian pogroms must be condemned clearly and unambiguously. In accordance with its international obligations, the Government of the USSR, together with the international community, should take effective measures to bring about a peaceful solution to the question of minorities in the USSR, including the problem of the Armenian people of Karabakh.

79. Mr. HANZEK (International Federation for Human Rights) said that, as a member of the Slovenian Committee for the Defence of Human Rights, a corresponding organization of the International Federation for Human Rights, he wished to express the Federation's deep regret at the assassination of Enver Hadri, the President of the Council for the Defence of Human Rights and Liberties in Kosovo. Mr. Hadri had been shot and killed in Brussels only a few days after providing information to the European Parliament for the adoption of a resolution on the human rights situation in Kosovo.

80. On 23 March 1989, Kosovo, an autonomous area in which most of the Albanian ethnic minority lived, had been forced to change its Constitution under extreme pressure from the Serbian authorities. Kosovar officials who had indicated opposition to what they considered an ultimatum by the Serbian authorities had been relieved of their duties and, in some cases, had been arrested and imprisoned. They were accused of anti-revolutionary actions and could, after a purely political trial, be sentenced to the death penalty.

81. The Federation had carried out three missions to Kosovo during 1989 in which it had identified many grave violations of human rights. On the last occasion, its delegates had been forced to flee under threat of death. Its report on the last mission described the many faces of the oppression of the Albanian minority of Kosovo, including torture and internationally illegal procedures such as "differentiation" and "isolation".

82. As a result of that repressive climate, the Albanian population had begun to participate in peaceful mass demonstrations calling for the lifting of the state of emergency, democratic elections, and the release of all political prisoners. The Serbian authorities had responded with anti-riot police, causing many injuries and deaths.

83. His organization deplored the attacks on peaceful members of the Albanian minority and, on the basis of its investigation, rejected the assertion that the Muslim faith professed by many Kosovars had been a determining factor in the regional unrest, since Orthodox Christians Kosovars had been struggling together with the Muslims to achieve their rights.

84. His organization welcomed the initiatives taken recently for a dialogue between all those concerned in Yugoslavia and hoped that that effort would be successful in bringing about a generally satisfactory solution. It requested the Government of Yugoslavia unequivocally and publicly to condemn Mr. Hadri's murder and urged it to take all measures to identify and prosecute the murderer. It also requested the Belgian Government, together with the European Community, to lodge a protest with the Yugoslav Government, which had a responsibility to prevent its citizens from resorting to acts of terrorism whether in Yugoslavia or abroad.

85. In conclusion, he urged the Commission to request the Secretary-General to appoint an independent person of good standing to act as mediator in seeking peaceful solutions to difficult and frequently explosive situations involving both minority issues and questions of human rights.

86. Mrs. Quisumbing (Philippines) resumed the Chair.

87. Mr. JAZIC (Yugoslavia), speaking in exercise of the right of reply, said that the representative of Liberation, a non-governmental organization had made a statement concerning the situation in the autonomous province of Kosovo in which many of the so-called facts and the comments presented did not correspond to reality. In his delegation's opinion, the non-governmental organization in question should have been much more objective and should have based its statement on genuine facts. It should have been aware that, in its legislation and practice, Yugoslavia prohibited and punished any form of discrimination, including racism, and that it was one of the countries which had ratified the highest number of the relevant international instruments.

88. His delegation had already presented substantial facts concerning the true nature of the problem in the province of Kosovo in its statement to the Commission on 22 February. However, with regard to the allegation by Liberation that, following the constitutional changes of 1989, all the powers of the provinces, based on articles 300 and 301 of the Constitution of Serbia, were being wielded without the consent of the provincial assemblies, wished to draw attention to the text of article 301 of the Constitution of Serbia: "The Assembly of the SF of Serbia shall adopt any law which, on the basis of arrangement, regulates the relations for the whole territory of the Republic uniformly, subject to the prior consent of the assemblies of the autonomous provinces. Should the assembly of any autonomous province withhold its consent, the law involved shall not be applicable in the territory of that autonomous province.".

89. As for the statement just made by the representative of the International Federation for Human Rights, the previous clarifications given by his delegation applied to it also.

90. Mr. LOEIS (Observer for Indonesia), speaking in exercise of the right of reply, said with regard to the statement made by the representative of Portugal that no resolution had been adopted or any decision taken by the Commission in the past five years on the so-called question of East Timor. Some references had been made by a few delegations and some non-governmental organizations to which his delegation had provided an explanation and the necessary clarification.

91. That situation showed that, in the best judgement of the Commission, the allegations on the human rights situation in East Timor were either unfounded or politically motivated. He wished, however, to make a few comments on the matter. Firstly, with regard to the deliberations on the draft resolution on East Timor in the Sub-Commission, the suspension of rule 59 and the application of a secret ballot had been neither warranted nor justified.

92. As for the substantive aspect, if there was any question of refusal of entry to the province of East Timor to credible human rights organizations - which his delegation doubted - then that needed to be addressed in a manner that would be conducive to the attainment of the deserved objectives. No Government would feel obliged to respond positively to an imposition by outside parties, especially not by organizations which, from their own words and deeds, were a priori biased against that Government. He suggested to the non-governmental organizations concerned that they, too, should be realistic and perhaps even introspective with regard to the manner in which they pursued their interest in the human rights situation of the Indonesian people of East Timor.

93. His Government would be willing to consider seriously requests to visit East Timor by certain human rights organizations if they were able to display, by words and deeds, that they were truly sincere in their good will and objectivity with regard to the human rights situation there.

94. He could assure the members of the Commission that his Government was determined to implement its development programmes throughout the entire territory of Indonesia. The advancement of the human rights of all the Indonesian people, in particular those in the province of East Timor, formed an integral part of that programme.

95. The CHAIRMAN said that the Commission had concluded its consideration of agenda item 19.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(c) CO-ORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS (agenda item 11) (E/CN.4/1990/18 and Add.1, 19, 20, 49, 54, 65, 79 and 85; E/CN.4/1990/NGO/2 and 39; A/44/660 and Add.1; E/AC.51/1989/2)

96. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing the item, said that the Commission had already examined the question of alternative approaches and ways and means within the United Nations system for improving the enjoyment of human rights and fundamental freedoms and had, at its forty-fifth session, adopted resolution 1989/48. In that connection, he referred to the last preambular paragraph and operative paragraphs 3, 4 and 5 of the resolution.

97. With regard to the topic of international co-operation in solving international problems of a social, cultural or humanitarian character, and in promoting and encouraging universal respect for, and observance of, human rights and fundamental freedoms, the Commission had in its resolution 1989/49, called upon all States to implement fully the international standards for the promotion and protection of human rights.

98. Against the background of the common objective of promoting a truly universal culture of human rights, the World Public Information Campaign for Human Rights appeared as an essential tool. Since its establishment in December 1988 by a unanimous decision of the General Assembly, the Centre for Human Rights had substantially increased its co-ordinating role in the system as a whole and with regard to promoting education in human rights. That action currently constituted the third side of the triangle of legislation, implementation and information.

99. The priority henceforth given to information and education activities as an aspect of the human rights field had been enhanced by the increasing co-operation of Member States and non-governmental organizations with which the Centre sought to intensify such exchanges. As the Secretary-General had stressed in his report to the Commission the previous year, in parallel to the efforts which had to continue in the fields of legislation and implementation, a new priority should henceforth be accorded to information and education.

100. It seemed evident that human rights issues were currently being covered more than ever before by radio, television and the newspapers. The network which the United Nations was trying to develop with non-governmental organizations, academic and research communities, media, and concerned individuals throughout the world could not but increase the effectiveness and outreach capacity of the Organization's programme and thus the practical effects of the Campaign's activities.

101. In those endeavours, the Centre relied on the professional expertise of the Department of Public Information and appreciated the Department's enhanced efforts concerning human rights information. In that regard, he stressed the importance of audio-visual materials and films, which would be very effective in furthering the Campaign's objectives.

102. Activities for the promotion of human rights and fundamental freedoms within the framework of the Campaign were grouped into five major areas: (a) preparation and dissemination of printed public information and reference materials; (b) workshops, seminars and training courses; (c) fellowships and internships; (d) special human rights observances; and (e) coverage and promotion activities.

103. The Centre had continued its programme of information and reference materials started in 1988 in connection with the fortieth anniversary of the Universal Declaration of Human Rights.

104. During 1989, the Centre had sponsored a number of workshops, training courses and seminars on various human rights issues in all parts of the world. The Centre had also co-operated in the organization of, or actively participated in, some 80 workshops, seminars and meetings held by academic and research institutions and non-governmental organizations throughout the world.

105. As examples of the possibilities afforded by enhanced co-operation within the United Nations system, he wished to highlight the joint endeavours with the United Nations Development Programme; with the United Nations Educational, Scientific and Cultural Organization on the issue of human rights teaching; with the United Nations Children's Fund on the question of the rights of the child; with the World Health Organization on the question of AIDS and human rights; and with the United Nations High Commissioner for Refugees on issues relating to human rights and refugees. Outside the United Nations system, the Centre had increased its co-operation world-wide with regional and national institutions active in the field of human rights information and education.

106. With the assistance of the Department of Public Information, the Centre's staff had given radio and television interviews, as well as press conferences on special occasions, such as on the International Day for the Elimination of Racial Discrimination. Special mention should be made of the human rights concert organized on 17 December 1989 at Geneva to increase public awareness of human rights questions and to engage the artistic community in the World Public Information Campaign. The concert had been made possible thanks to the generous support of the Italian Government. It should also be noted that human rights exhibits had been held throughout the year in New York and Geneva.

107. Mention should also be made of the fact that, as part of the Campaign, the first series of human rights stamps depicting the first six articles of the Universal Declaration of Human Rights had been issued in Geneva, New York and Vienna, and also in Washington, in late 1989. The other articles of the Declaration would follow in the next four years.

108. As indicated in the report on the Campaign (E/CN.4/1990/19) in the section entitled "Costs incurred in 1989", the Centre had spent its allocation of $US 100,000 for its publications programme. As a result of the limited budget available and of the increased world-wide demand for human rights information and reference materials, the Centre's current print-run was no

longer sufficient to meet the demand. It was evident that the wider the circulation of those pamphlets and brochures, the higher the awareness of human rights questions and thus the effectiveness of the implementation mechanisms of the international community in the field of human rights.

109. There had been an enormous expansion in the use of the communication procedures, from an average of 40,000 communications per year to some 300,000 in 1989, which was almost certainly linked to the distribution of Fact Sheet 7 on the communications procedure. The Centre did not claim that the Campaign's activities had directly affected those developments, but considerable growth had been noted in requests and demands world-wide resulting from those activities. He stressed that link once again, for knowledge of human rights and of the means of protection available was a fundamental key to the universal as well as individual enjoyment of those rights.

110. The main task within that context was to assist in creating a truly universal culture of human rights, in achieving a well-informed and constructive body of public opinion in favour of human rights, and in representing a flame of hope for the victims of oppression and injustice.

111. While a preliminary assessment of the Campaign's impact was contained in part IV of the Secretary-General's note (E/CN.4/1990/19), the question would be reviewed continuously so as to guarantee the greatest possible results within the available resources and to redirect strategies in keeping with emerging priorities so as to make the Campaign a flexible information tool with catalytic and multiplier effects.

112. The Centre was faced time and again with resource constraints which prevented it from satisfying the rapidly growing requests for information and education programmes emanating from all parts of the world, particularly the developing countries. He hoped that the Commission would give due consideration to those questions during its debate on the item.

113. Recalling the provisions of operative paragraphs 5 and 4 of General Assembly resolution 43/157, he noted that the Commission by its resolution 1989/51 recommended, through the Economic and Social Council, that the Assembly should adopt the framework for future efforts contained in the annex to that resolution. By its resolution 44/146, the Assembly called upon the Commission to continue its consideration of the question.

114. By its resolution 44/147, the Assembly also called upon the Commission at its current session to give priority to the review of fundamental factors that negatively affected the observance of the principle of national sovereignty and non-interference in the internal affairs of States in their electoral processes.

115. As for the co-ordinating role of the Centre for Human Rights, at its previous session, the Commission, while considering it essential that, in the context of the general financial situation of the United Nations, sufficient resources commensurate with the high priority attributed to the programme should be allocated to human rights, in particular to the Centre, had stated that organizational changes should not adversely affect the functioning of the Centre but should rather strengthen its status and enhance its role.

116. The Commission supported the Secretary-General's efforts to enhance the role and importance of the Centre for Human Rights as a co-ordinating unit and expressed the hope that the steps being taken by the Secretary-General in that direction, including the measures to promote the settlement of regional conflicts, would foster co-operation in upholding and protecting human rights and fundamental freedoms, better understanding, mutual respect, trust and tolerance in relations between States and peoples.

117. While reaffirming the importance of the principles set out in Article 101, paragraph 3, of the Charter of the United Nations, the Commission had invited the Secretary-General to request Governments, United Nations specialized agencies and intergovernmental and non-governmental organizations to express their views on the strengthening of the Centre's activities, with special emphasis on new directions and forms, including increasing the representation of under-represented groups of States, notably the developing countries, in senior and policy-formulating posts in the Centre, while safeguarding the principle of equitable geographical distribution.

118. In that connection, he drew attention to General Assembly resolution 44/167 in which the General Assembly decided to recommend that the Economic and Social Council take the necessary steps, at its first regular session of 1990, to expand the membership of the Commission on the basis of the principle of equitable geographical distribution for the further promotion of human rights and fundamental freedoms. The Commission had also been requested to examine ways and means of making its work more effective and to submit its recommendations thereon to the Economic and Social Council.

119. In the autumn of 1989, he had expressed the view in the Third Committee of the General Assembly that it would be both timely and appropriate, given the changes taking place in the world, to reflect upon the Organization's achievements in the field of human rights and the areas which remained open for progress, to consolidate what the Organization had done that was positive and to consider what new directions it should take with respect both to machinery and standards and to priority areas of concern for the next decade.

120. He had added that the Assembly might wish to consider the idea of holding a World Human Rights Congress to deal at the highest level with those crucial issues. Such a Congress would be a focal point for common reflections and might be prepared by suitable regional meetings of non-governmental organizations and academies.

121. He recalled the request made to the Secretary-General by the General Assembly, when adopting resolution 44/156, to seek the views of Governments, specialized agencies, non-governmental organizations and United Nations bodies concerned with human rights regarding the desirability of convening a World Conference on Human Rights for the purpose of dealing at the highest level with crucial questions facing the United Nations in connection with the promotion and protection of human rights. He hoped that the Commission would find it appropriate to express its views on the desirability of such an enterprise.

The meeting rose at 1 p.m.